

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

WEST CONTRA COSTA UNIFIED  
SCHOOL DISTRICT AND OAKLAND  
UNIFIED SCHOOL DISTRICT.

OAH Case No. 2014050135

ORDER FOLLOWING PREHEARING  
CONFERENCE, GRANTING  
CONTINUANCE, AND SETTING  
PREHEARING CONFERENCE AND  
HEARING DATES

On October 20, 2014, a telephonic prehearing conference was held before Administrative Law Judge Theresa Ravandi, Office of Administrative Hearings. Natashe Washington, Attorney at Law, appeared on behalf of Parent and Student. Shawn Olson Brown, Attorney at Law, appeared on behalf of the West Contra Costa Unified School District (West Contra Costa). Lenore Silverman, Attorney at Law, appeared on behalf of the Oakland Unified School District (Oakland). The PHC was recorded.

Based on discussion with the parties, the ALJ issues the following order:

1. Motion to Continue. This matter was scheduled for hearing beginning on October 30, 2014. On October 14, 2014, West Contra Costa and Oakland filed a joint motion for continuance due to the unavailability of counsel. On October 16, 2014, Student filed an opposition to the continuance request on the grounds that a further continuance will prejudice Student. During the PHC, all parties were given the opportunity to further argue their positions.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Speedy resolution of the due process hearing is mandated by law and continuance of the hearing may be granted only upon a showing of good cause. (Ed. Code, § 56505, subd. (f)(3).) In ruling upon a motion for continuance, OAH is guided by the provisions found within the Administrative Procedure Act and the California Rules of Court that concern motions to continue. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.) Generally, continuances of matters are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Although this ALJ is sympathetic to Student's argument that a further continuance will result in prejudice, Student, himself, has contributed to the delay in this matter. Student

filed his original complaint on April 28, 2014, as to West Contra Costa only. Student agreed to an initial continuance, and then further waited until the date of the continued PHC on September 5, 2014, to file a motion to amend his complaint along with a proposed amended complaint which added Oakland as a party. Although it would have been preferable for counsel for the districts to have informed Student of their conflict and seek new hearing dates from OAH sooner, having weighed the equities, West Contra Costa and Oakland established good cause and a continuance was granted.

All dates are vacated and the matter will be set to the following agreed-upon dates:

Prehearing Conference: November 24, 2014, at 1:00 p.m.

Due Process Hearing: December 8, 2014, at 1:30 p.m., December 9-11, 2014 at 9:00 a.m., December 15 at 1:30 p.m., and December 16, 2014, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the ALJ.

The hearing shall take place at West Contra Costa's district office located at 2465 Dolan Way, San Pablo, California 94806. West Contra Costa shall provide a facility for the hearing that fully complies with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. § 794.), the Unruh Civil Rights Act (Civ. Code, § 51 et seq.), and all laws governing accessibility of government facilities to persons with disabilities.

2. Notice to Witnesses. The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing good cause to continue the hearing if the witness is not properly notified of the hearing date or properly subpoenaed, as applicable.

3. Other Matters. All other matters relevant to preparing for hearing, including clarification of issues and identification of witnesses and exhibits, will be addressed at the PHC on November 24, 2014.

4. Settlement. The parties are encouraged to continue working together to reach an agreement before the due process hearing. The parties shall inform OAH in writing immediately should they reach a settlement or otherwise resolve the dispute before the scheduled prehearing conference and hearing dates. Dates for the PHC and hearing will not be cancelled unless a letter of withdrawal or a request for dismissal with the signature page of the signed agreement has been received by OAH.

IT IS SO ORDERED.

DATE: October 20, 2014

/s/

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THERESA RAVANDI  
Administrative Law Judge  
Office of Administrative Hearings